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Attorneys for Defendants
6 SOUTHERN WINE AND SPIRITS OF AMERICA, INC.;
HARVEY CHAPLIN; WAYNE CHAPLIN;
7 and JAMES MELAHN

8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION
12

13 THEODORE SIMPKINS,

14 Plaintiff,

15 v.

16 SOUTHERN WINE AND SPIRITS OF
AMERICA, INC.; HARVEY CHAPLIN;
17 WAYNE CHAPLIN; JAMES MELAHN; and
DOES ONE through TEN, inclusive,
18

Defendant.
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Case No. 10-CV-2353-EDL

**STIPULATION AND ~~PROPOSED~~
ORDER RE: BRIEFING SCHEDULE
AS MODIFIED**

Judge: Hon. Elizabeth D. Laporte

Date Comp. Filed: April 28, 2010

1 **WHEREAS** Defendants Southern Wine & Spirits of America, Inc., Harvey Chaplin,
2 Wayne Chaplin and James Melahn removed this case to federal court on May 28, 2010;

3 **WHEREAS** Defendants filed a Motion to Dismiss Pursuant to the First-to-File Rule on
4 June 1, 2010 and set it for hearing on July 6, 2010;

5 **WHEREAS** the Court re-set the hearing on that Motion to July 13, 2010;

6 **WHEREAS** Defendants filed a Motion to Dismiss Pursuant to Federal Rule of Civil
7 Procedure 12 on June 4, 2010, and set it for hearing on July 13, 2010;

8 **WHEREAS** Plaintiff filed a Motion to Remand on June 10, 2010;

9 **WHEREAS** Defendants agreed that Plaintiff could set the hearing for his motion to
10 remand on thirty-three (33) days notice, rather than the thirty-five (35) days contemplated by
11 Local Rule 7-2(a);

12 **WHEREAS** Plaintiff set the hearing for his Motion to Remand for July 13, 2010, the
13 same day as the hearing on the other two motions;

14 **WHEREAS** the parties have met and conferred and believe that the number of issues to
15 be briefed on this schedule, and their complexity, warrant a brief extension of the time to file
16 opposition and reply briefs; and

17 **WHEREAS** the proposed schedule will not prejudice any party and will not cause undue
18 delay;

19 **IT IS THEREFORE STIPULATED THAT:**

20 1) Plaintiff's Opposition to the Motion to Dismiss Pursuant to the First-to-
21 File Rule will be due on June 25, 2010;

22 2) Plaintiff's Opposition to the Motion to Dismiss Pursuant to Federal Rule
23 of Civil Procedure 12 will be due on June 25, 2010;

24 3) Defendants' Opposition to the Motion to Remand will be due on
25 June 25, 2010;

26 4) Defendants' Reply re: the Motion to Dismiss Pursuant to the First-to-File
27 Rule will be due on July 2, 2010;

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5) Defendants' Reply re: the Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12 will be due on July 2, 2010;

6) Plaintiff's Reply re: the Motion to Remand will be due on July 2, 2010.

7) **The hearing on all three motions is continued to July 20, 2010.**

Dated: June 15, 2010

KEKER & VAN NEST LLP

By: /s/ Warren A. Braunig

ROBERT A. VAN NEST
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WARREN A. BRAUNIG
Attorneys for Defendants
SOUTHERN WINE AND SPIRITS OF
AMERICA, INC.; HARVEY CHAPLIN;
WAYNE CHAPLIN and JAMES
MELAHN

Dated: June 15, 2010

ALTSHULER BERZON LLP

By: /s/ James M. Finberg

MICHAEL RUBIN
JAMES M. FINBERG
Attorneys for Plaintiff
THEODORE SIMPKINS

***Concurrence obtained per
General Order 45 X.B***

IT IS SO ORDERED.

Dated: June 15, 2010

Elizabeth D. Laporte
HON. ELIZABETH D. LAPORTE